

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-122-RJC**

DELTON MAYNOR,)
)
 Petitioner,)
)
 v.) **ORDER**
)
 BRAD PERRETT, Superintendent,)
 Lumberton Correctional Inst.,)
)
 Respondent.)
 _____)

THIS MATTER is before the Court on consideration of Petitioner's motion for leave to conduct discovery and compel the public defender to answer interrogatories and produce documents; Petitioner's motion to compel the Asheville Police Department and the Sheriff's Department to answer interrogatories and produce documents; and Petitioner's motion to appoint counsel.

Petitioner filed a petition for a writ of habeas corpus in this district pursuant to 28 U.S.C. § 2254 which challenges the very convictions that he is challenging through this present habeas action. In Case No. 1:13-cv-130-RJC, the Respondent has filed a motion for summary judgment on Petitioner's claims and Petitioner has filed his response. That matter is presently under review therefore the Court finds that Petitioner's present motions should be denied without prejudice pending disposition in Case No. 1:13-cv-130.

The Court also finds that the present habeas action should be dismissed and that all documents filed in this case should be filed in Case No. 1:13-cv-122, and that the Respondent should be served with a copy of this Order. Petitioner's right to challenge his state convictions is

fully preserved through his habeas proceeding in 1:13-cv-130, and the present action is merely duplicative.

Should respondent choose to file a response to any of the filings in the present case, he may do so within thirty days from entry of this Order.

IT IS, THEREFORE, ORDERED that:

1. Petitioner's motions for leave to conduct discovery and compel answer to interrogatories and produce documents are **DENIED** without prejudice. (Doc. Nos. 2 and 3).

2. Petitioner's motion to appoint counsel is **DENIED** without prejudice. (Doc. No. 4).

3. The Clerk shall docket this Order and all filings from this case as an attachment to this Order in Case No. 1:13-cv-130.


4. Respondent may file a response to these filings within thirty (30) days from entry of this Order should he choose to do so.

5. Petitioner's habeas petition in this civil action is **DISMISSED**. (Doc. No. 1).

The Clerk is directed to serve a copy of this Order on the Respondent's counsel of record in Case No. 1:13-cv-130. Further, the Clerk of Court is **DIRECTED** to close this civil case. (Case No. 1:13-cv-122).

IT IS SO ORDERED.

Signed: December 3, 2013


Robert J. Conrad, Jr.
United States District Judge

